

WITNESSES/EVIDENCE

The prosecution does not request any witnesses or evidence be produced for this motion. The prosecution requests that the Court consider the enclosure listed at the end of this motion.

LEGAL AUTHORITY AND ARGUMENT

RCM 701(g)(2) states that “[u]pon a sufficient showing the military judge may at any time order that the discovery or inspection be denied, restricted, or deferred, or make such other order as is appropriate.” RCM 701(g)(2). The rule continues that “[u]pon motion by a party, the military judge may permit the party to make such showing, in whole or in part, in writing to be inspected only by the military judge.” *Id.*; see also AE XXX (“RCM 701(g)(2) does authorize the Court to allow *ex parte* showings by either party when moving the Court to restrict or limit discovery”); *United States v. Abrams*, 50 M.J. 361, 363 (C.A.A.F. 1999) (under RCM 701(g)(2), “the military judge has such tools as *in camera* reviews, and protective or modifying orders at his disposal”).

The proposed redacted information is neither favorable to the accused and material to guilt or punishment, nor relevant and necessary for production. See *Brady v. Maryland*, 373 U.S. 83 (1963); RCM 701(a)(6); RCM 703(f).

The proposed redaction is shaded in grey on the enclosed document. See Enclosure. Though unclassified, the redaction is necessary (b) (1) (A)

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The prosecution will not use the redacted information during any portion of the trial.

CONCLUSION

The prosecution respectfully requests this Court: (1) consider this motion *in camera* and *ex parte* under RCM 701(g)(2); and (2) authorize a redaction of material within one DHS document under RCM 701(g)(2) that is neither favorable to the accused and material to guilt or punishment, nor relevant and necessary for production under RCM 703(f).



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Enclosure
Department of Homeland Security Document